

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

FRANCISCO GOMEZ, ROSE GOMEZ,
JASON HIBBS, MANUEL ORTIZ, LORI
FORMANEK, and MARIA ROBLES-ROJAS,

Defendants.

8:16CR62

ORDER

This matter is before the court on the defendant, Manuel Ortiz' Notice of Competency Defense, Request for Mental Evaluation and Hearing to Determine (#126), pursuant to 18 U.S.C. § 4241(a).

An evidentiary hearing in accordance with 18 U.S.C. § 4247(d) was held before the undersigned magistrate judge on February 3, 2017. The defendant Manuel Ortiz was present with his counsel, Travis Penn. The United States was represented by Assistant United States Attorney, Kimberly Bunjer. At the request of the parties, the Court took judicial notice of Dr. Bruce Gutnik's evaluation. (#145)

Filing No. 145, Dr. Bruce Gutnik's report, concludes that the defendant, Manuel Ortiz, is not at this time competent to stand trial and cannot adequately participate in his own defense in a rational manner. Therefore I find, by a preponderance of the evidence, that the defendant, Manuel Ortiz is presently suffering from a mental disease or defect which renders him mentally incompetent to understand the nature and consequences of the proceeding against him or to assist properly in his defense pursuant to 18 U.S.C. § 4241.

IT IS ORDERED:

1. The defendant, Manuel Ortiz' Notice of Competency Defense, Request for Mental Evaluation and Hearing (#126) is granted.
2. Defendant, Manuel Ortiz, is not presently competent to stand trial and is committed under Title 18 U.S.C. § 4241(d) to the custody of the Attorney General for hospitalization and treatment in a suitable facility for such a reasonable period of time not to exceed four months, as necessary to determine whether there is a substantial probability that in the foreseeable future he will attain the capacity to permit the trial to proceed; and for additional reasonable periods of time until his mental condition is so improved the trial may proceed, if the court finds that there is a substantial probability that within such additional period of time he will attain the capacity to permit the trial to proceed or the pending charges against him are disposed of according to law, whichever is earlier.
3. The institution or facility shall submit to the undersigned a status report on the 30th day following the defendant, Manuel Ortiz' arrival at such facility. Once the court receives the status report, the court will immediately provide the evaluation to counsel of record.

Dated this 6th day of February, 2017.

BY THE COURT:

s/ Susan M. Bazis
United States Magistrate Judge